

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

PATRICK DELANE WILLIAMS,)
)
Plaintiff,)
)
v.) Case No. CIV-23-1183-SLP
)
)
JORDAN BLAKE JONES, *et al.*,)
)
Defendants.)

O R D E R

This matter is before the Court pursuant to its prior Order on May 20, 2024 [Doc. No. 12]. In that Order, the Court extended Plaintiff's deadline to pay the initial \$150.00 owed toward his filing fee from April 11, 2024 to June 14, 2024. *Id.* at 2. The Court also ordered Plaintiff to pay \$100.00 installments on or before the 15th day of each month thereafter until the full \$350.00 filing fee had been paid.¹ *See id.*

Plaintiff timely paid the initial \$150.00 on May 22, 2024. [Doc. No. 13]. To date, however, Plaintiff has failed to pay the next \$100.00 installment toward his filing fee, which was due on July 15, 2024. Order [Doc. No. 12] at 2. Plaintiff has not sought an extension of time to do so, and the Court's Order specifically stated “[n]o further extensions of the deadline for any payment will be granted absent extraordinary circumstances.” *Id.* The Order further explained: “failure to timely make . . . any subsequent payment will

¹ Also before the Court is the Report and Recommendation [Doc. No. 11] of United States Magistrate Judge Shon T. Erwin, which recommends dismissal of this action for failure to pay the initial filing fee. Although the Court has since extended the deadline for Plaintiff to pay the initial partial filing fee, the rationale supporting the recommendation to dismiss this action applies the same here, as set forth below.

result in dismissal of Plaintiff's action without prejudice . . . regardless of any prior payments made or attempted." *Id.* Accordingly, Plaintiff's action is subject to dismissal without prejudice for failure to pay his filing fee. *See LCvR3.4(a); see also Fed. R. Civ. P. 41(b); Nasious v. Two Unknown B.I.C.E. Agents at Arapahoe Cty. Justice Ctr.*, 492 F.3d 1158, 1161 n. 2 (10th Cir. 2007) (sua sponte dismissal permitted where a plaintiff fails to comply with the rules of civil procedure or the court's orders).²

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 11] is ADOPTED and this action is DISMISSED WITHOUT PREJUDICE for Plaintiff's failure to timely pay his filing fee. A separate judgment shall be entered contemporaneously herewith.

IT IS SO ORDERED this 9th day of August, 2024.



SCOTT L. PALK
UNITED STATES DISTRICT JUDGE

² Plaintiff's Complaint [Doc. No. 1] is based on events that occurred in 2023, so it appears the statute of limitations has not expired for his claims. *Heuston v. Ballard*, 578 F. App'x 791, 792 (10th Cir. 2014) (noting the applicable limitations period for a § 1983 claim in Oklahoma is two years). Accordingly, the Court may dismiss this action without prejudice "without consideration of the criteria applicable to a dismissal with prejudice." *See AdvantEdge Bus. Grp. v. Thomas E. Mestmaker & Assocs., Inc.*, 552 F.3d 1233, 1236 (10th Cir. 2009).